

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: AMERICAN MEDICAL SYSTEMS, INC.,
PELVIC REPAIR SYSTEMS
PRODUCTS LIABILITY LITIGATION

MDL NO. 2325

THIS DOCUMENT RELATES TO THE FOLLOWING CASES:

2:12-cv-02472; 2:12-cv-03719; 2:12-cv-05561; and 2:12-cv-05836

**PRETRIAL ORDER # 87
(SECOND AMENDED DOCKET CONTROL ORDER –
FIRST AND SECOND ROUND OF BELLWETHERS)**

It is **ORDERED** that PTO ##s 37 and 69 are amended as follows:

1. *Trial Order of Bellwether Cases:* On or before **December 6, 2013**, the parties shall submit to the Court a ranking of the bellwether cases in preferred order for trial. The Court shall pick the order of the bellwether trial cases for the April 7, 2014 and May 5, 2014 trials as soon as practicable thereafter.
2. *Expert Depositions:*
 - a. On or before **September 23, 2013**, Plaintiffs and Defendants will identify three (3) dates before **November 22, 2013** that Expert Witnesses are available for deposition. Plaintiffs and Defendants shall have five (5) days to confirm dates of deposition for each expert witness they intend to depose in this litigation. The parties shall make their best efforts to depose Plaintiffs' Expert witnesses prior to the time that Defendants' Expert witnesses are deposed.

- b. Expert Discovery for the four Bellwether cases shall be completed by **November 22, 2013**.
- 3. Written Discovery. Parties shall serve any and all final, non-duplicative written discovery pursuant to F.R.C.P. 33, 34 and 36 in the four bellwether cases no later than **November 12, 2013**.

Discovery. Discovery on all Bellwether cases, including corporate depositions related to the April 5, 2014 and May 6, 2014 trial dates, shall be completed by **December 13, 2013**, with the exception of third-party discovery relevant to these bellwether trials, which must be completed by **February 1, 2014**.
- 4. Daubert Motions and Non-Daubert Based Dispositive Motions.
 - a. Daubert Motions shall all be filed and served by **December 20, 2013**.
 - b. All Responses to Daubert Motions shall be filed and served by **January 14, 2014**.
 - c. All Replies to Daubert Motions shall be filed and served by **January 21, 2014**.
- 5. Daubert Based Dispositive Motions and Motions in Limine.
 - a. Dispositive Motions and Motions in Limine shall be filed and served by **February 14, 2014**.
 - b. All Responses to Dispositive Motions and Motions in Limine shall be filed and served by **March 7, 2014**.
 - c. All Replies to Dispositive Motions and Motions in Limine shall be filed and served by **March 12, 2014**.
 - d. Motions in Limine are limited to 3 pages each, responses are limited to 2

pages each.

- e. Local Rule of Civil Procedure 7.1(a)(2) applies regarding the page limits on memoranda in support of dispositive motions as well as responses and replies.

The court will not be inclined to grant motions to exceed the page limit. The court requests that the parties abide by Local Civil Rule 7.1(a)(5) regarding courtesy copies.

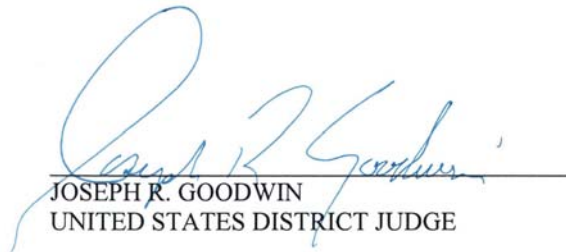
- 6. Dates for summary judgment and *Daubert* hearings, if any, will be set at an upcoming status conference
- 7. Deposition Designations. Deposition designations shall be filed by **February 25, 2014**. Any objections to an opposing party's designations, and any counter-designations shall be filed by **March 14, 2014**. Any objections to the counter-designations, and any counter-designations to an opposing party's counter-designations, shall be filed by **March 24, 2014**.
- 8. Exhibit and Witness Lists. The parties will exchange exhibit and witness lists by **March 25, 2014**.
- 9. The parties shall file a proposed integrated pretrial order pursuant to Fed. R. Civ. P. 16 3 days prior to the pretrial conference. The proposed integrated pretrial order, signed by all counsel and unrepresented parties, shall set forth the matters listed in Local Civil Rule 16.7(b).
- 10. The parties shall file proposed jury instructions in charge form on substantive theories of recovery or defense, on damages and on evidentiary matters peculiar to the case, and special interrogatories, if any be appropriate to the case, along with a proposed verdict form on **March 25, 2014**. The court requests that the

parties email the proposed jury instructions to the court's law clerk in Word format.

11. Pretrial and Final Settlement Conferences. The Court shall conduct a pretrial conference on **March 26, 2014, at 10:00 a.m.** and will notify the parties as to the date of a final settlement conference.
12. Trial. The cases shall be tried in the order decided by the Court in Paragraph 1 above on **April 7, 2014 at 8:30 a.m.** and **May 5, 2014 at 8:30 a.m.**

The court **DIRECTS** the Clerk to file a copy of this order in 2:12-md-2325 and **in the following member cases:** 2:12-cv-02472; 2:12-cv-03719; 2:12-cv-05561; and 2:12-cv-05836 and it shall apply to each member related case previously transferred to, removed to, or filed in this district, which includes counsel in all member cases up to and including civil action number 2:13-cv-24713. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at www.wvsd.uscourts.gov.

ENTER: October 10, 2013



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE